BOROUGH OF SWISSVALE

ORDINANCE NO. 15- _____

AN OF THE BOROUGH OF SWISSVALE, ALLEGHENY COUNTY, PENNSYLVANIA ESTABLISHING A SHADE TREE ADVISORY COMMITTEE, SETTING FORTH THE NUMBER AND QUALIFICATIONS OF BOARD MEMBERS, AND OUTLINING THE RESPONSIBILITIES OF THE COMMITTEE

WHEREAS, Swissvale Borough has a rich variety of trees throughout the Borough, which has enhanced the aesthetic value of its neighborhoods for many years; and

WHEREAS, it is the goal of Swissvale Borough Council to preserve the trees of the Borough, to enforce regulations governing the care and protection of trees, to plant trees, and where appropriate, to remove trees that are diseased or dangerous to avoid any danger to the public ; and

WHEREAS, the Swissvale Borough Council deems it appropriate and useful to have the advice of concerned and knowledgeable citizens on the best way to achieve these goals and to preserve the stock of shade trees within the Borough; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH OF SWISSVALE, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, THAT THE SWISSVALE BOROUGH CODE IS HEREBY AMENDED AS FOLLOWS:

Section 1. Chapter 16 of the Swissvale Borough Code is amended to include Part 3, entitled "Swissvale Shade Tree Advisory Committee," as follows:

Part 3

Borough Trees

§ 16-301. Definitions

1. "ADA" refers to the Americans With Disabilities Act.
2. "Borough" means Borough of Swissvale.
3. "Council" means the Swissvale Borough Council.
4. "Department" means the Swissvale Borough Department of Public Works.
5. "Park Tree" means trees within all named Swissvale public parks.
6. "Person" means any natural person, partnership, firm, association, public utility or corporation.
7. "Private property" means all real estate within the Borough of Swissvale except real estate that is owned, leased, controlled or occupied by local, state or federal government agencies.
8. "Property owner" shall be presumed to be any one or more of the following:
    A. The property owner or owners of a parcel of real estate including the life tenant or tenants, if any;
    B. The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
9. "Public Tree" means trees on all other ground owned by the Borough that is not part of a public street or public park.
10. "Right-of-Way" means land reserved or dedicated for use as a street, crosswalk, or other means of travel, or other public or private purposes, including existing and future right-of-way. "Right of Way" is the legal right to pass along a specific route through property belonging to another; for example, an easement granted for access to electrical lines.
11. "Sidewalk" means the paved area which extends from the property line to the outer edge of the curbing
12. "SSTAC" means Swissvale Shade Tree Advisory Committee.
13. "Street" means any public street, avenue, road, drive, circle, square, alley, way, highway, sidewalk or other public place located in the Borough of Swissvale, as established within the ordained right-of-way.
14. "Street Tree" means tree on the land lying within a dedicated right-of-way or easement.

15. "Tree" when used by itself, means any woody plant which generally includes those having a single main stem which grows to a mature height of over ten (10) feet.
16. "Tree, Large" means any tree that may attain a mature height of 50-70 feet.
17. "Tree, Medium" means any tree that may attain a mature height of 30-50 feet.
18. "Tree, Small" means any tree that may attain a mature height less than 30 feet.
19. "Tree Pit" means open ground at a minimum of thirty square feet between the curb and sidewalk or any area completely surrounded by impervious surface, with no one dimension of that open space being less than three feet.

§ 16-302. Swissvale Shade Tree Advisory Committee

1. **Committee Membership:** Effective upon passage of this ordinance, the Borough of Swissvale establishes the Swissvale Shade Tree Advisory Committee, hereafter known as the SSTAC. The SSTAC shall consist of no fewer than three and no more than five members, who are residents of the Borough, and who shall be appointed by and shall serve at the pleasure of the Council. Council shall, where possible, appoint citizens who have a strong interest and knowledge of the issues related to the preservation and expansion of the Borough's stock of shade trees.

2. **Term of Office:** The term of each member of the SSTAC shall be three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by Council for the unexpired portion of the term.

3. **Compensation**: Members of the SSTAC shall serve without compensation.

4. **Duties and Responsibilities:** The responsibilities of the Committee shall be to advise Borough Council on all matters of policy involving the preservation of the Borough's trees, as well as advise on the planting, transplanting and expansion of the trees within the Borough and, where appropriate, to make suggestions to the appropriate Borough officials on the removal of trees that present a danger or threat to the public health or safety. In addition, the Shade Tree Committee may advise the Borough regarding available funding and grants to support the preservation of the Borough's trees, including preservation of existing trees as well as the planting and replanting of new trees within the Borough. Any such grants or funding opportunities will be applied for and implemented by Borough employees after approval by Borough Council. The duties and responsibilities of the Committee shall include:

a. The SSTAC, when requested by Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

b. The SSTAC shall serve as a liaison between the community and Council with respect to community concerns relating to street, park, or public trees.

c. The SSTAC shall interact closely with the Department of Public Works to assist in matters relating to street, park, and public trees, including recommendations for tree species selection, placement, removal, and pruning, and to

investigate funding and financial support for those activities.

d. The SSTAC shall report at least annually to the full Council concerning its transactions, expenses, as approved by Council, recommendations and activities for the previous calendar year.

5. **Committee Operation:** The Shade Tree Advisory Committee shall organize by electing a Chair, Vice-Chair and Secretary. The Committee shall meet at the pleasure of the Chair of the Committee, but in no event less than every ninety (90) days. The Committee shall also meet with the President or members of Council at the request of the President of Council. Meeting minutes will be written and approved by the SSTAC and sent to the Borough Manager for distribution to Council. A majority of the members shall be a quorum for the transaction of business.

6. **Authority:** In accordance with the Borough Code of the Commonwealth of Pennsylvania, final decisions with respect to the cutting or removal of trees within the Borough for any reason, including disease or circumstances which present a threat to the public safety or health, shall rest with the Borough Manager, who shall have authority to direct the Swissvale Public Works Department regarding any plantings or removals. The Swissvale Public Works Department shall have exclusive custody and control of, and the power to plant, set out, remove, protect and care for trees and shrubs in any public street, right-of-way, park, sidewalk or other public place in the Borough. The final determination with respect to the expenditure of Borough funds with respect to any

of the activities related to the Shade Tree Committee, including any final decisions with respect to the removal or planting of trees, shall rest with the appropriate officials of Swissvale Borough, including the Manager. In addition, any grant applications shall require the final review and approval of the Borough Council.

§ 16-303. Maintenance and Planting of Trees

1. **Approval of Department:** No person may plant, treat (chemically or biologically), prune, remove, or otherwise disturb any tree located on Borough-owned property or public rights-of-way without first obtaining written permission from the Department.

2. **Guidelines for Arbor Work**: The Swissvale Public Works Department may, at its discretion, draft and adopt Guidelines for Arbor Work which include standards for the maintenance and planting of street trees, park trees and public trees within the Borough. Any such guidelines, along with the provisions of this Part, shall not apply to any Pennsylvania public utility to the extent the Swissvale regulations are preempted by Pennsylvania law, including the Pennsylvania Public Utilities Code and associated regulations. The Guidelines for Arbor Work adopted by the Department may include standards relating to the following:

   a. The designation of approved species for use as street trees, park trees, public trees.

   b. The manner in which trees shall be handled and planted.

   c. Standards for spacing between trees, depending on tree size. No trees may be planted closer together than the

following: small trees, fifteen feet; medium trees, twenty feet; and large trees, thirty feet; except in special plantings designed or approved by a landscape architect and approved by the Borough Department of Public Works and the Borough Engineer.

3. **Street Tree Pit Size**: There shall be maintained about the base of the trunk of each street tree a minimum of thirty square feet of open ground, with no one dimension of that open space being less than three feet. Tree pits shall be installed in a manner that accommodates both minimum tree pit sizing and ADA specifications for sidewalks.

4. **Street Tree Distance from Curb and Sidewalk:** Swissvale Ordinance Chapter 21-404 identifies that sidewalk widths are based on street widths. The distance trees may be planted from curb or curb lines and sidewalks will be subject to the discretion and approval of the Department and the provisions of any Guidelines for Arbor Work adopted by the Department. However, trees shall be planted a minimum of 18 inches from curb or sidewalks.

5. **Street Tree Distance from Street Corners, Stop Signs, and Fire Hydrants:** The following standards shall apply to any trees planted subsequent to the effective date of this ordinance.

a. No street tree shall be planted closer than thirty feet from any street corner, measured from the point of nearest intersection of curb lines.

b. No street tree shall be planted closer than thirty feet of a stop sign.

c. No street tree shall be planted closer than fifteen feet of any fire hydrant.

d. No street tree shall be planted within fifteen feet of a curb cut-out.

e. The placement of trees is subject to the Swissvale Zoning Ordinance regarding Clear Sight Distances at Intersections, Swissvale Code § 27-402.2.

6. **Proximity of Trees to Utility Facilities:**

a. The Department may establish guidelines approving certain species of trees which may be planted under overhead utility wires.

b. No street, park, or public trees shall be planted over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

c. No street, park, or public trees shall be planted within ten feet of a utility pole.

7. **Public Tree Care**: The Borough shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Borough may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees are approved by the Borough.

8. **Tree Topping**: It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree, or public tree. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and

disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Department.

9. **Pruning, Corner Clearance**: Every owner of any tree overhanging any street or right-of-way within the Borough shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the sidewalk and a clear space of fifteen feet (15') above the surface of the street. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Borough will consider the condition of any such tree to be a nuisance and shall give the owners of such trees proper notice under Chapter 10, Part 1 of the Swissvale Borough Code. The Borough shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign, and shall have the right to recover the cost of any such pruning pursuant to Chapter 10, Part 1 of the Swissvale Borough Code, entitled "Nuisances."

10. **Nuisance Tree Removal on Private Property**: The Borough shall have the right to cause the removal of any nuisance trees on private property within the Borough, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the Borough. The Borough will consider the condition of any such tree to be a nuisance and shall give the owners of such trees proper notice under

Chapter 10, Part 1 of the Swissvale Borough Code. In the event of failure of owners to comply with such provisions, the Borough shall have the authority to remove such trees and recover the cost of removal pursuant to Chapter 10, Part 1 of the Swissvale Borough Code, entitled "Nuisances."

11. **Removal of Stumps:** When a tree is removed, all stumps of street, park, or public trees shall be removed below the surface of the ground so that the tip of the stump shall not project above the surface of the ground.

12. **Effect of Other Laws:** The regulations within this section are not intended to eliminate, limit or modify any other applicable regulations or laws promulgated at the local, state or federal level.

§ 16-304. Penalties

Any person, firm or corporation who shall violate any provision of § 16-303 of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than $1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. This section shall not apply to the Borough, its paid employees or paid contractors when engaging in work on behalf of the Borough.

Section 2. All ordinances or resolutions or parts of ordinances and resolutions in conflict with the terms of this Ordinance are repealed and rescinded to the extent that such conflict exists.

Section 3. This Ordinance shall be effective upon adoption.

ORDAINED AND ENACTED this _____ day of _____, 20__.

ATTEST:

_____ By:_____

Borough Manager President of Council

EXAMINED and approved this _____ day of _____, 20__.

_____

Mayor